

# **EXHIBIT D**

Court File Number:

CV-18-00611214-00CL

Superior Court of Justice  
Commercial List

CV-18-00611219-00CL

CV-18-00611217-00CL

FILE/DIRECTION/ORDER

FTI Consulting Coe et al

Plaintiff(s)

AND

ESL Investments et al

Defendant(s)

Case Management ☐ Yes ☐ No by Judge: \_\_\_\_\_

Counsel	Telephone No:	Facsimile No:
(see list attached)		

- ☒ Order ☐ Direction for Registrar (No formal order need be taken out)  
☐ Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- ☐ Adjourned to: \_\_\_\_\_  
☐ Time Table approved (as follows):

On Apr 18 and 19, 2019 I was to hear three motions - a certification motion and two motions to strike the claim advanced by the Litigation Trustee. Unfortunately the motions had to be adjourned on a contested basis.

Although all of the plaintiffs wished to proceed, the defendant supported a motion by Sears Holdings

18 April 19

Date

McEwen

Judge's Signature

☒ Additional Pages \_\_\_\_\_

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Judges Endorsment Continued

Corporation (SHC) to adjourn the  
motion.

I agreed to adjourn the motion  
reluctantly, given the fact that  
on April 16/19 a motion was  
served in the US Chapter 11 proceedings  
returnable May 21/19 to lift the  
stay against SHC. If successful  
it is the stated goal of all  
plaintiffs in these actions to pursue  
claims against SHC.

Since SHC has an interest in  
the motion before me and would  
be affected if the stay was  
lifted, it is my view that it  
would be unfair and not  
judicially economical to proceed.  
It raises the spectre of real  
prejudice to SHC and multiple  
motions on the same or similar

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**Judges Endorsment Continued**

Subject matters-

There was debate over when SHC or its counsel had notice of the lift-stay motion issue. In my view, not much time on this. All developments occurred in the past 2-3 weeks. Overall, an adjournment is reasonable and necessary.

Future steps can be discussed and reviewed at the case conference set for April 26, 2019 and on an ongoing basis depending on the outcome of the May 21/19 motion.

McE...